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OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Twelfth periodic reports of States parties due in 1993

Addendum

REPUBLIC OF IRAQ*

[1 April 1996]

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* This document contains the eleventh and twelfth periodic reports due on 15 February 1991 and 15 February 1993 respectively. For the ninth and tenth periodic reports of the Republic of Iraq and the summary records of the meetings at which the Committee considered those reports, see documents CERD/C/SR.917 and SR.920-922.

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Foreword

National developments in regard to democracy and human rights in Iraq

1. During the last 27 years since the revolution of 17 July 1968, the question of democracy and human rights has played an important role in the thinking and course of action of Iraq's leaders. This concern stemmed from an intrinsic position derived from the cultural and religious heritage of the Iraqi people, all groups and minorities of which have coexisted and intermingled in a fraternal manner from the beginning of time, thereby endowing this people with characteristics that must be taken into consideration and respected in the practical and objective application of public freedoms and human rights.

2. Within the framework of their priorities, the political leaders had to deal with an extremely important problem for which inadequate concern had been shown during the pre-revolutionary era, namely the question of minorities who form part of the Iraqi people. In this way, for the first time in its modern history, Iraq laid down the foundations on which racial discrimination could be combated in the region of Iraqi Kurdistan on a firm constitutional basis through respect for the ethnic rights of the Iraqi Kurds and the legitimate rights of all minorities within the framework of the national unity of the Republic of Iraq. Article 5 (b) of the Constitution of the Republic of Iraq stipulates that: "The Iraqi people consists of two principal ethnic groups: Arabs and Kurds. The Constitution recognizes the ethnic rights of the Kurdish people, as well as the legitimate rights of all minorities, within the framework of national unity." Article 8 (c) of the Constitution further stipulates that: "The region in which the majority of the population are Kurds shall enjoy autonomy in the manner determined by law." Revolution Command Council Decree No. 288 of 11 March 1970 subsequently laid down general guidelines for autonomy by stipulating that one of the Vice-Presidents of the Republic must be a Kurd, that civil servants in administrative units inhabited by a Kurdish majority must be Kurds or proficient in the Kurdish language, and that there must be no discrimination between Kurds and others in regard to access to public office.

3. Pursuant to these constitutional provisions, Act No. 33, known as the Iraqi Kurdistan Regional Autonomy Act, was promulgated on 11 March 1974. This Act stipulated that the region of Iraqi Kurdistan would enjoy autonomy and would be regarded as a single administrative unit endowed with corporate personality and enjoying autonomy within the framework of the legal, political and economic unity of the Republic of Iraq.

4. With regard to cultural rights, the academic and information facilities that have been established to promote Kurdish culture include a university in the Autonomous Region and the Kurdish Cultural and Publishing House which is run by the Ministry of Culture and Information and publishes a daily newspaper and a number of magazines that are seeking to develop Kurdish culture.

5. The abnormal situation in northern Iraq resulting from interference by some Western States, led by the United States of America, in the internal

affairs of the Republic of Iraq is preventing Kurdish Iraqi citizens from enjoying the rights guaranteed by the Constitution and the Iraqi legislation in force.

6. With regard to the Turkomans, Revolution Command Council Decree No. 89 of 24 November 1970 stipulated that the Turkoman language would be taught at the primary educational level and all the requisite teaching aids in the Turkoman language would be made available at all schools in which this language was taught. A Directorate of Turkoman Studies was also to be established at the Ministry of Education and Turkoman poets and writers were to be permitted to establish their own federation and were to be provided with assistance to enable them to print their works. A Directorate of Turkoman Culture was also to be established and the duration of the Turkoman programmes broadcast on public radio and television was to be increased.

7. Revolution Command Council Decree No. 251 of 20 February 1972 recognized the cultural rights of Syriac-speaking citizens (Assyrians, Chaldeans and members of the East Syrian Church). Syriac was to be the language of tuition at all primary schools in which the majority of pupils spoke that language in addition to Arabic. Syriac was also to be taught at intermediate and secondary schools in which the majority of students spoke that language in addition to Arabic. Special programmes in Syriac were to be broadcast on public radio and television and three Syriac-language magazines were to be published. An Association of Syriac-Speaking Authors and Writers has also been established.

8. The overall provisions of these Iraqi legislative enactments in force, as well as the actual practices in regard to minorities, show that the Republic of Iraq is effectively observing the rights and limitations specified in the international instruments concerning the rights of minorities. The principal characteristics of the rights of minorities in Iraq consist in equal treatment and non-discrimination between citizens belonging to different ethnic, religious and linguistic communities. No group is favoured over another. The country's sovereignty, as well as its territorial unity and integrity, must be respected.

9. When the politically and economically independent nationalist outlook had taken root during the 1970s, the leadership began its endeavours to transform the aspiration towards democracy into tangible reality. In the first half of 1980, after His Excellency President Saddam Hussein had assumed the post of President of the Republic of Iraq, the country actively began its first democratic experiment consisting in the establishment of the Iraqi National Assembly and the Legislative and Executive Councils of the Autonomous Region of Iraqi Kurdistan and participation by the elected leaders of popular non-governmental organizations in the drafting of legislative decrees.

10. These measures constituted the first steps towards the application of democracy in Iraq and should have been crowned by the election of the President of the Republic in a popular referendum. However, the outbreak of the war which the Islamic Republic of Iran imposed on Iraq and which lasted for eight years, as well as the circumstances that accompanied it, led to the postponement of this matter until after the end of that war and the return to normal conditions.

11. After the end of that war, Iraq began to prepare itself to enter the post-war era in a suitable manner by creating appropriate conditions for the continued promotion and expansion of democracy and the enjoyment of human rights. Iraq made considerable progress in that regard and that period witnessed the abrogation of many of the exceptional measures necessitated by the circumstances of the war. The Political Parties Act No. 30 of 1991 was promulgated and extensive discussions took place with a view to the promulgation of a legislative act concerning freedom of the press. A new constitution for the country was drafted and discussed at all official and popular levels and was expected to be submitted to a referendum in 1990. However, the events at Kuwait and the war of aggression that was launched against Iraq on 17 January 1991 once again hindered those important achievements in the field of democracy and human rights.

12. Following the cessation of military operations and the subsequent disturbances, the United States of America and a number of its allies unilaterally took measures and engaged in operations designed to fragment Iraq and undermine its national unity, as illustrated by the direct military intervention in northern Iraq, which led to the withdrawal of national governmental authority from three governorates (Dohuk, Arbil and Sulaimaniya), and the imposition of an air exclusion zone north of the 36th parallel and south of the 32nd parallel, without any legal justification or international resolution, thereby flagrantly violating Iraq's sovereignty and territorial integrity, which had been reaffirmed in all the relevant Security Council resolutions, in addition to violating the Iraqi people's right to exercise self-determination and choose their political system of their own free will, as stipulated in the Charter of the United Nations and the two International Covenants on Human Rights.

13. These measures, together with the ongoing economic embargo, constitute a fait accompli that has forced Iraq to live in an undeclared state of emergency, as referred to in article 4 of the International Covenant on Civil and Political Rights. In 1993, in spite of these circumstances, His Excellency the President of the Republic of Iraq once again raised the issue of the presidential referendum with the Iraqi leadership. However, the above-mentioned difficult circumstances, and particularly the abnormal situation in northern Iraq which was actually in a state of semi-occupation by some coalition forces, prompted the leadership to postpone this matter.

14. These difficult circumstances have naturally had inhuman repercussions on various aspects of life and have given rise to social situations that are alien to the real Iraqi society, which has always been characterized by security and stability. The grave danger to which the security of citizens and society was exposed induced the Iraqi legislature to adopt heavier penalties of a provisional nature to act as a deterrent and protect society's right to security, since it is not part of the Iraqi legislature's criminal policy to adopt heavier penalties. The draft Iraqi Penal Code clearly reveals the corrective and educative theory which underlies its text and illustrates the philosophy in which the Iraqi legislature believes.

15. In spite of these difficult circumstances, the political leadership in Iraq found that the higher national interest and the need to address

fundamental issues necessitated development of the democratic approach by strengthening and consolidating constitutional legitimacy and promoting the rule of law and human rights.

16. In this connection, attention should be drawn to the fact that the pursuit of that aim does not imply the absence of constitutional legitimacy and the rule of law, as some imagine and as the Special Rapporteur of the Commission on Human Rights, Mr. van der Stoel, attempted to portray, in a biased and politically motivated manner, in his report. The Republic of Iraq is taking confident and real strides, in accordance with its national programme, towards a new era characterized by the consolidation and expansion of democratic practice.

17. In this field, Iraq has taken a series of national measures, including the promulgation of decrees commuting death sentences and granting comprehensive general amnesties to Iraqis and non-Iraqis on whom penalties were imposed for their commission of politically motivated offences, with a view to providing an opportunity for citizens who have sinned against their society to review and reform their conduct, and also to provide an opportunity for all citizens to participate in the process of consolidating the democratic approach and broadening the social base of democratic participation. These measures culminated in the constitutional amendment concerning the post of President of the Republic of Iraq, which stipulated that the candidate for this post must be submitted to a popular referendum in accordance with Revolution Command Council Decree No. 85 of 1995. The referendum was scheduled for 15 October 1995 and was monitored by hundreds of Arab and foreign journalists, correspondents of news agencies and international television stations and a large number of political personalities who confirmed the fairness of the referendum through their unrestricted visits to polling stations where they were able to interview citizens. By an overwhelming majority, the Iraqi people freely and democratically expressed their desire to choose President Saddam Hussein as President of the Republic of Iraq for a seven-year term of office. It was regrettable that the Iraqi Kurds living in the Northern Region were unable to participate in this referendum and express their views due to the abnormal circumstances that this region is experiencing. They will exercise this constitutional right as soon as the abnormal and exceptional circumstances that prevented them from so doing have ended.

18. The Local People's Councils Act No. 25 of 1995 was promulgated with a view to ensuring participation by all Iraqi citizens, from the smallest village to the capital Baghdad, in the running of public affairs. The National Assembly Act No. 26 of 1995 was promulgated in order to regulate parliamentary life in Iraq in such a way as to ensure participation by all sections of the people in political life in Iraq. It is hoped that legislative elections will be held in the first half of 1996.

Introduction

19. Iraq has always submitted its periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial

Discrimination by their due dates in the belief that these reports are an important means to show the extent to which States are committed to implementing the provisions of the Convention. The delay in the submission of Iraq's eleventh and twelfth reports is attributable to reasons relating to the abnormal situation in parts of the governorates of Arbil, Dohuk and Sulaimaniya in the north of the Republic of Iraq. That situation is the result of the iniquitous military intervention by some Western States, led by the United States of America, which constitutes not only a serious violation of the right of peoples to self-determination but also blatant interference in the internal affairs of the Republic of Iraq.

20. The Government of Iraq felt that this abnormal situation should not prevent Iraq from fulfilling its obligations as a party to the Convention. It therefore decided to submit the report while, at the same time, explaining the abnormal situation in northern Iraq in an annex in order to acquaint the distinguished members of the Committee with the nature of the situation there.

21. During the preparation of the two reports, due regard was shown for the guidelines set forth in document CERD/C/70/Rev.3 of 23 July 1993.

I. THE POLITICAL STRUCTURE OF AUTHORITY

22. Article 1 of the Iraqi Constitution stipulates that Iraq is a sovereign democratic republic. Article 2 further stipulates that the people are the source of authority, which they legitimize.

23. Since the revolution of 17-30 July 1968, the authority in Iraq has been led by the Arab Baath Socialist Party. The political system in Iraq is presidential, since article 57 of the Constitution stipulates that the President of the Republic is the head of State and the commander-in-chief of the armed forces, who exercises executive authority either directly or through the Council of Ministers. Article 58 of the Constitution specifies the powers of the President of the Republic.

24. The President of the Republic also chairs the Revolution Command Council which was formed after the July 1968 revolution. Article 37, paragraph (a) of the Constitution specifies the Council's powers by stipulating that the Revolution Command Council is the highest institution in the State, while article 42, paragraph (a), stipulates that it is competent to issue enactments and decrees having the force of law.

25. As indicated in article 61 of the Constitution, the Council of Ministers consists of the ministers. Its powers are specified in article 63, paragraph (a) of which stipulates that the Council is responsible for drafting bills of law for submission to the competent legislative authority.

26. The National Assembly, which consists of representatives of the people from various economic and social sectors, engages in legislative activities and is competent to call the executive bodies to account. Articles 47-56 of the Constitution specify the composition, working procedure and powers of the Assembly.

II. LEGISLATIVE MEASURES TO COMBAT RACIAL DISCRIMINATION AND SAFEGUARD THE RIGHTS OF MINORITIES

(implementation of art. 2 of the Convention)

27. Legislation concerning the elimination of racial discrimination and the treatment of persons belonging to minorities in Iraq:

(a) Article 5 of the Constitution recognizes the rights of all minorities by stipulating: "The Iraqi people consists of two main ethnic groups: Arabs and Kurds. This Constitution recognizes the ethnic rights of the Kurdish people, as well as the legitimate rights of the other minorities, within the framework of Iraqi unity." Article 19 of the Constitution further stipulates that citizens are equal before the law, without distinction on grounds of sex, race, language, social origin or religion;

(b) The Penal Code (Act No. 111 of 1969), as amended, which applies to all citizens on an equal footing;

(c) The Iraqi Kurdistan Regional Autonomy Act No. 33 of 11 March 1974;

(d) The Iraqi Kurdistan Regional Legislative Council Act No. 36 of 1974;

(e) Revolution Command Council Decree No. 89 of 1970, which recognized the cultural rights of the Turkomans;

(f) Revolution Command Council Decree No. 251 of 1973, which recognized the cultural rights of the Syriac-speaking minorities (Assyrians and Chaldeans). Further reference to the provisions of those legislative enactments will be made below.

III. MEASURES TAKEN TO ENSURE ADEQUATE DEVELOPMENT, PROTECT ETHNIC GROUPS AND SAFEGUARD THEIR RIGHTS

28. In the introduction to this part, we indicated that the Iraqi people consists of two main ethnic groups, Arabs and Kurds, in addition to other ethnic minorities. The Constitution and the legislation in force protect the rights of these minorities within the framework of the unity of the Iraqi people, since protection of the rights of minorities is one way to combat racial discrimination through the eradication of racism by ensuring equality among citizens regardless of their racial, linguistic or religious affiliation. Accordingly, since the July 1968 revolution, Iraq has recognized the legitimate rights of its minorities and has promulgated the requisite above-mentioned legislation to ensure the enjoyment of those rights.

29. Since 1968, the Government of Iraq has devised a comprehensive and just solution to the Kurdish question, which previous Governments had failed to

settle, by promulgating the Autonomy Act which laid down the foundations for a peaceful and democratic solution to the Kurdish question. That Act stipulated as follows:

(a) Article 1: The region of Kurdistan, namely the region in which the majority of the population are Kurds, shall enjoy autonomy and shall be regarded as a single administrative unit endowed with corporate personality within the framework of the legal, political and economic unity of the Republic of Iraq. The region shall be an inseparable part of the territory of Iraq and its people shall constitute an integral part of the Iraqi people. The city of Arbil shall be the headquarters of the autonomous administration;

(b) Article 2: In addition to Arabic, Kurdish shall be an official language in the region and shall be the language of education for the Kurds;

(c) Articles 5-6: The region of Iraqi Kurdistan shall be an independent financial unit within the overall financial unity of the State. It shall have a budget of its own, which shall form part of the consolidated budget of the State;

(d) Article 10: The Legislative Council (of the region of Kurdistan) shall be the region's elected legislative body. Its composition, organization and working procedure shall be determined in an enactment to be promulgated at a later date. (This was followed by the promulgation of the Kurdistan Regional Legislative Council Act No. 36 of 1974 in order to enable the members of the Kurdish Iraqi ethnic group to fully exercise their legitimate rights and also in order to consolidate their autonomy. Article 1 of that Act stipulated that: "The Council shall consist of 80 members freely elected by direct ballot." The Autonomous Administrative Units Regulatory Act, which was subsequently promulgated, stipulated that the President of the Executive Council (of the region of Kurdistan), who must be Kurdish, would be the region's highest ranking official in whose name decrees and orders would be issued and who would ensure the implementation of the laws and regulations and the administration of justice, in addition to preserving security and public order and protecting national and local public facilities and State funds.)

IV. THE CULTURAL RIGHTS OF THE TURKOMANS AND SYRIAC-SPEAKERS

30. Revolution Command Council Decree No. 89 of 24 November 1970 recognized the cultural rights of the Turkoman minority in Iraq and stipulated that the Turkoman language would be taught at the primary educational level and that all the requisite teaching aids in the Turkoman language would be made available at all schools in which this language was taught. A Directorate of Turkoman Studies was also to be established at the Ministry of Education and Turkoman poets and writers were to be permitted to establish their own federation and were to be provided with assistance to enable them to print their works and enjoy opportunities to enhance their expertise and their linguistic aptitudes. A Directorate of Turkoman Culture was also to be established and run by the Ministry of Education.

31. Under the terms of that Decree, the Turkoman minority was also accorded the right to publish a weekly newspaper and a monthly magazine in the Turkoman

language. The number of Turkoman programmes on Kirkuk television was increased to one hour per day and the duration of Turkoman broadcasts on Kirkuk radio was also increased to seven hours per day.

32. With regard to the Syriac-speaking minorities, such as the Assyrians, the Chaldeans and the members of the East Syrian Church themselves, Revolution Command Council Decree No. 251 of 26 April 1973 recognized the cultural rights of this minority in the following manner:

"Syriac shall be the language of tuition at all primary schools in which the majority of pupils speak that language. The Arabic language shall be taught, as a compulsory subject, at those schools.

"Syriac shall be taught at intermediate and secondary schools in which the majority of pupils speak that language. Arabic shall be the language of tuition at those schools.

"Syriac shall be taught at the Faculty of Arts of Baghdad University.

"Special programmes in Syriac shall be broadcast by the radio and television stations transmitting from Kirkuk and Nineva.

"A monthly magazine in Syriac shall be published by the Ministry of Culture and Information.

"An Association of Syriac-Speaking Authors and Writers shall be established and shall be represented in Iraq's literary and cultural federations and associations.

"Syriac-speaking authors, writers and translators shall be given material and moral assistance to print and publish their cultural and literary works.

"Syriac-speaking citizens shall be allowed to open cultural and artistic clubs and form folklore and theatrical troupes in order to revive and develop their heritage and folklore."

V. IRAQ'S COMMITMENTS TO COMBAT RACIAL DISCRIMINATION AND THE MEASURES TAKEN TO PUNISH CRIMES OF RACIAL DISCRIMINATION AND SEGREGATION

(implementation of arts. 3 and 4)

At the international level

33. In its struggle against racism, Iraq has adopted a comprehensive cultural and humanitarian approach that condemns all forms of racism, regarding them as a joint scourge that afflicts mankind as a whole. Iraq emphasizes that the principle of non-discrimination is an imperative rule of international law the

violation of which is equivalent to the commission of an international offence. Accordingly, on the basis of this conviction, Iraq has acceded to the international instruments and conventions seeking to combat racism with a view to making an effective contribution to the elimination of all manifestations of racism. Their provisions have become an integral part of Iraq's domestic legislation and can therefore be invoked before the Iraqi courts which can be called upon to apply them. Iraq has published all the United Nations resolutions concerning endeavours to combat racism and colonialism and has sponsored symposia and studies on this subject. Iraq also regards the Declaration of 1978 of the United Nations Educational, Scientific and Cultural Organization as a basic guideline for the application of its cultural and information policy.

34. Iraq has acknowledged racial segregation as a crime against humanity by virtue of its accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid, article 1 of which declares that apartheid constitutes a crime against humanity, a challenge to the imperative rules of international law, a violation of the purposes and principles of the Charter of the United Nations and a threat to international peace and security.

35. Iraq has therefore cooperated with the international community in its endeavours to combat racial segregation wherever it might occur. Iraq has also voted in favour of the resolutions adopted by the international community in this regard and, for many years, has taken a firm political stand against the policy of racial discrimination and segregation. Some of Iraq's international obligations are illustrated by the following:

(a) The Charter of the United Nations, Articles 1 and 55 of which affirm the need for respect for the principle of equal rights and self-determination of peoples and respect for human rights without any distinction as to race, sex, language or religion;

(b) The Universal Declaration of Human Rights;

(c) The United Nations Declaration on the Elimination of All Forms of Racial Discrimination;

(d) Iraq's accession to the International Convention on the Elimination of All Forms of Racial Discrimination;

(e) Iraq's accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid;

(f) Iraq's accession to the International Covenant on Civil and Political Rights;

(g) Iraq's accession to the UNESCO Convention against Discrimination in Education;

(h) Iraq's accession to the Discrimination (Employment and Occupation) Convention of the International Labour Organization;

(i) Iraq's accession to the Convention on the Rights of the Child;

(j) Iraq's accession to the Convention on the Elimination of All Forms of Discrimination against Women.

At the domestic level

36. Racist propaganda is prohibited and any violation of this prohibition is punished, regardless of whether its perpetrators are individuals, bodies corporate, State institutions, public or local authorities or organs of the information media, since they are all subject to the authoritative provisions of the Constitution. Under Iraqi law, such propaganda is regarded as a punishable offence. For example, article 36 of the Constitution prohibits any activity that is incompatible with the goals of the people, as defined in the Constitution, as well as any act or behaviour aimed at undermining the national unity of the masses of the people or inciting racist, confessional or regional bigotry among their ranks. Iraqi law prescribes the following penalties for offences involving racial discrimination or segregation:

(a) Article 200 of the Iraqi Penal Code stipulates: "Anyone who provokes or propagates confessional or sectarian bigotry, incites others to engage in racial or intercommunal strife or stirs up a feeling of hatred or animosity among the population of Iraq shall be punished by a term of up to seven years' imprisonment.";

(b) Article 203 of the same Code stipulates: "Anyone who provides financial, material or moral support with a view to encouraging others to commit the offences listed in article 200 shall be punished by a term of up to seven years' imprisonment.";

(c) Article 204 of the Code stipulates: "Anyone who establishes or recruits members for an association or organization seeking to promote or propagate confessional bigotry, incite others to engage in intercommunal conflict or stir up a feeling of hatred and animosity among the population of Iraq, shall be punished by a term of up to 15 years' imprisonment and a fine of up to 2,000 dinars. Anyone who joins such associations or organizations shall be punished by a term of up to 10 years' imprisonment.";

(d) Under article 208 of the Penal Code, anyone who, with evil intent, possesses or acquires written, printed or recorded material which is of a discriminatory nature or which incites or promotes the acts referred to in article 200 of the Penal Code is liable to a penalty of up to seven years' imprisonment and a fine of not less than 1,001 dinars and not more than 10,000 dinars if the said material is intended to be distributed, published or brought to the attention of others. It is evident, therefore, that the provisions of the Penal Code do not permit any individual or organization to engage in any form of racial discrimination.

VI. CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS

(implementation of art. 5)

The right to equal treatment before the tribunals

37. The basic aim of the judiciary is to ensure the legal protection of all persons on an equal footing. To this end, article 63, paragraph (b), of the Constitution embodies the fundamental principle that all citizens have a guaranteed right to seek legal remedy. If this provision is viewed in conjunction with article 19 of the Constitution, it can be said that the principle of non-discrimination before the tribunals is effectively safeguarded. Accordingly, under Iraqi law, the right of recourse to the civil or criminal tribunals is guaranteed to all citizens without distinction as to race, sex, language or religion.

38. Iraqi legislation attaches due importance to the use of the languages of the minorities, in addition to the Arabic language, before the tribunals. Article 7 of the Constitution stipulates: "The Kurdish language shall be an official language, in addition to the Arabic language, in the Kurdish region." Revolution Command Council Decree No. 311 of 26 March 1974 further stipulates that either Arabic or Kurdish may be used in documents, correspondence and official business within the Autonomous Region and decisions concerning the autonomous institutions must be promulgated in both the Arabic and Kurdish languages. Moreover, article 5, paragraph (a), of the above-mentioned Revolution Command Council Decree stipulates that proceedings before tribunals exercising jurisdiction within the Autonomous Region must be conducted in either the Arabic or the Kurdish language, as decided by the presiding judge, who may also accept pleas in any other local language, and the tribunal must take all the measures needed to make this possible. Paragraph (b) of the same article stipulates that judgements must be handed down in both the Arabic and the Kurdish languages.

The right to liberty, personal dignity and inviolability of homes

39. Article 22, paragraph (a), of the Constitution stipulates: "Human dignity shall be safeguarded." Paragraph (b) of the same article further stipulates that it is prohibited to arrest, detain, imprison or search any person except as provided by law. Under paragraph (c) of the same article: "Homes are inviolable and shall not be entered or searched except in accordance with the legally specified procedure." In keeping with the above, article 19 of the Code of Criminal Procedure prohibits the arrest or detention of any person except on the basis of an order issued by a judge or a tribunal or in circumstances in which such is permitted by law. Articles 92-120 of the same Code deal with the question of the arrest, remand in custody and release of suspects.

40. It is noteworthy that, under article 322 of the Penal Code, any public official who arrests, imprisons or detains any person in circumstances other than those provided for by law is liable to a penalty of up to seven years' imprisonment.

Political rights

41. Article 2 of the Constitution embodies the principle that the people are the source of authority, which they legitimize. This principle implies the direct or indirect participation of all citizens, without discrimination, in the conduct of public affairs and in the exercise of control over the actions of the public authorities. This function is assumed by the National Assembly, the composition and activities of which are specified in articles 47-55 of the Constitution. In this connection, we wish to point out that the Kurdish minority has voted on two occasions, once to elect the members of the National Assembly which represents the whole of Iraq, and once to elect the members of the Legislative Council of the region of Kurdistan.

42. The President of the Republic has two Vice-Presidents, one of whom is Kurdish. Kurds also hold ministerial posts, seats in the National Assembly and senior official positions in State institutions.

43. The ethnic minorities in Iraq are free to express their political opinions and views and have the right to form political parties, such as the Kurdistan Democratic Party and the Kurdistan Revolutionary Party, since article 26 of the Constitution stipulates: "The Constitution guarantees freedom of opinion, publication and assembly and also freedom to hold demonstrations and to establish political parties, trade unions and associations in conformity with the aims of the Constitution and within the limits of the law. The State shall endeavour to provide the facilities needed for the exercise of these freedoms."

Civil rights

44. The Iraqi legislative enactments regulating the exercise of the rights of all sections of the people, without discrimination, are governed by article 19 of the Iraqi Constitution, which stipulates that citizens are equal before the law, without distinction on grounds of sex, race, language, social origin or religion. Accordingly, the civil rights of all Iraqi citizens are guaranteed by law.

The right to freedom of movement and residence

45. Article 24 of the Constitution stipulates: "No citizen shall be prevented from leaving or returning to the country, nor shall any restriction be placed on his freedom of movement and residence within the country, except in the circumstances provided for by law." In keeping with this principle, the freedom of Iraqi citizens to reside in any town of their choice is guaranteed by law without any discrimination. Their freedom to leave and return to their country is likewise guaranteed. In principle, persons wishing to leave the country merely require a passport or a travel document issued by an official authority in accordance with the provisions of article 2 of the Passports Act No. 55 of 1959.

The right to nationality

46. The question of Iraqi nationality is regulated by the Iraqi Nationality Act No. 43 of 1963, article 4 of which defines an Iraqi as any person born in

or outside Iraq to a father holding Iraqi nationality, born in Iraq to an Iraqi mother and an unknown or stateless father or born in Iraq to unknown parents. Any foundling discovered in Iraq is regarded as having been born therein, failing proof to the contrary. Under article 5 of the said Act, the Minister of the Interior is empowered to bestow Iraqi nationality on any person born outside Iraq to an Iraqi mother and an unknown or stateless father if the said person applies for Iraqi nationality within one year after reaching the age of legal majority.

The right to marriage and choice of spouse

47. Article 11 of the Constitution describes the family as the nucleus of society and stipulates that the State is responsible for ensuring its protection and support, as well as maternal and child welfare. Iraqi legislation recognizes the right of both men and women to marry and to found a family. Matters relating to marriage are regulated by the Personal Status Act No. 26 of 1978. All minorities and religious communities exercise their legally protected rights in regard to marriage and the ceremonies associated therewith. Many marriages take place between members of ethnic minorities and religious communities in Iraq.

The right to own property and to inherit

48. Article 16, paragraph (a), of the Constitution stipulates: "Ownership of property constitutes a social function which shall be exercised within the limits of the aims of society and the programmes of the State in a manner consistent with the provisions of the law." Paragraph (b) further stipulates: "Private ownership of property and the economic freedom of the individual shall constitute rights guaranteed within the limits of the law, provided that they are not exercised in a manner incompatible with or detrimental to public economic planning." Under paragraph (c): "Private property shall not be expropriated unless the public interest so requires, in which case equitable compensation must be paid in accordance with the legally prescribed procedures." Under paragraph (d): "The maximum permissible agricultural landholding shall be prescribed by law."

49. Article 17 of the Constitution stipulates that inheritance is a guaranteed right regulated by law. All these provisions are clearly in keeping with the principle of non-discrimination set forth in article 19 of the Constitution and it is noteworthy that the process of dividing estates is governed by the rules and customs of the religious communities, each of which has its own method which is regulated by law.

The right to freedom of opinion, expression, belief, religion and peaceful assembly

50. The Constitution guarantees the exercise of these rights by all citizens, without discrimination. Article 25 thereof stipulates: "Freedom of religion, belief and religious observance shall be guaranteed, provided that it is not incompatible with the provisions of the Constitution, the law, morality and public order." Article 26 of the Constitution stipulates that: "The

Constitution guarantees freedom of opinion, publication and assembly and also freedom to hold demonstrations and to establish political parties, trade unions and associations in conformity with the aims of the Constitution and within the limits of the law. The State shall endeavour to provide the facilities needed for the exercise of these freedoms."

51. There is nothing in Iraqi legislation to restrict the freedom of any person to belong to the religion or creed of his choice, within the limits of the legislation in force and subject to the requirements of public order and morality. There is no legislative provision under which any person is compelled to engage in specific religious rites or observances or to participate in the religious rites or observances of any religious denomination or confession other than that to which he belongs.

52. The exercise of these rights is regulated in detailed legislation concerning freedom of religious observance such as, for example, Legislative Act No. 87 of 1963 concerning the administration of the affairs of the Orthodox Armenian community and Legislative Act No. 78 of 1971 concerning the administration of the affairs of the Assyrian community. Under the provisions of that legislation and its implementing regulations, the members of religious communities have the right to organize their community affairs and to engage in religious, charitable and social activities. All religious communities also enjoy freedom of worship and freedom to observe religious practices, rites and celebrations, funeral ceremonies and days of rest, etc., subject to the requirements of public order and morality. All these rights are protected by law, as already mentioned.

53. All religious communities and institutions such as churches and places of worship have the right to maintain, promote and strengthen their religious links. The Iraqi Government took an important step with regard to the care and protection of religious communities through the promulgation of Ordinance No. 32 of 1981.

The right to work

54. Iraqi labour legislation, and particularly the Constitution and the Labour Act No. 71 of 1987, as amended, treat all workers equally and without any discrimination in regard to free choice of employment and protection from unemployment. Article 30, paragraph (b), of the Constitution stipulates that equality in regard to access to public office is guaranteed by law. Article 32, paragraph (a), of the Constitution further stipulates that work is a right the enjoyment of which the State guarantees for every citizen capable thereof. Under paragraph (c) of the same article, the State undertakes to improve working conditions and enhance the standard of living, experience and culture of all working citizens.

55. The ethnic minorities and religious communities enjoy this and other rights and are working in various fields and State institutions without any discrimination. Iraq has acceded to the ILO Convention concerning Discrimination in Respect of Employment and Occupation, as well as the international conventions prohibiting discrimination among workers.

The right to form and join trade unions

56. In Iraq, trade unions are organized on an occupational and not an ethnic, linguistic or religious basis. Workers engaged in any occupation are entitled to form a single country-wide trade union with branches in all the governorates. The Kurdish minority's Autonomous Region is regarded as one of Iraq's governorates and is treated in the same way as its other governorates. The Trade Union Regulatory Act No. 521 of 1987 does not place any restrictions on the freedom of trade-union organizations to join international and regional occupational federations and the trade-union organizations exercise this right in full freedom.

57. It is noteworthy that the General Federation of Trade Unions of Iraq is a member of numerous Arab and international occupational federations. Revolution Command Council Decree No. 9 of 1988 stipulates that membership of occupational federations, trade unions, associations and clubs is voluntary. That decree abrogated all the provisions contained in previous legislation, regulations and instructions under which membership of those bodies was obligatory; it also annulled all the material and other consequences resulting from the imposition of the obligation to belong to those bodies.

The right to housing

58. All citizens of Iraq have a right to housing, without any discrimination on grounds of race, sex, language or religion, and any male or female Iraqi citizen has the right to own a dwelling.

59. In the 1970s and 1980s, the State implemented housing plans under which thousands of residential units were constructed and plots of land for the construction of dwellings were distributed, particularly among State employees, without any discrimination. In this way, new residential districts meeting all the requirements of modern-day life sprang up at Baghdad and in the other governorates of Iraq. In spite of the difficult conditions with which the Iraqi people are faced as a result of the ongoing economic embargo, the Iraqi Government is continuing to distribute plots of land among its citizens so that they can build dwellings thereon. However, the exorbitant cost of building materials and other requirements due to the inflation resulting from the ongoing embargo are hampering the timely completion of these construction projects.

The right to health and social welfare services

60. Public health. The State provides all its citizens with free health services, including surgical operations and medicines, at the State hospitals without any discrimination on grounds of colour, sex, language, ethnic origin or religion.

61. Under article 33 of the Iraqi Constitution, the State has an obligation to protect public health by constantly expanding free preventive and therapeutic medical services and the provision of medicines in all urban and rural areas. Under article 1 of the Public Health Act No. 45 of 1958, as amended, the Ministry of Health also has an obligation to endeavour to ensure that the people are healthy in mind and in body.

62. Social welfare. Article 32, paragraph (d), of the Constitution stipulates: "The State undertakes to provide all citizens with the most extensive forms of social security in the event of sickness, disability, unemployment and old age." To this end, the Workers' Pensions and Social Security Act No. 36 was promulgated in 1971 and amendments were made to the other State legislative enactments concerning the pensions of State employees in general in such a way as to grant citizens additional rights and increase their pension entitlements on a non-discriminatory basis.

63. Public services. Iraqi legislation does not contain any provision that prevents an Iraqi citizen or a non-Iraqi residing in Iraq from enjoying access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres, cinemas and parks. Iraq has never suffered from any problem of this type at any period in its history.

VII. LEGISLATIVE MEASURES TO PROTECT INDIVIDUALS FROM DISCRIMINATION

(implementation of art. 6)

64. In addition to the information contained in paragraphs 27-32 of this report, concerning the legislation promulgated by the State with a view to combating racial discrimination and safeguarding the legitimate rights of ethnic minorities, the State has also taken other measures to protect individuals from racial discrimination, as illustrated by the following.

65. The provisions of the Penal Code give sufficient indication of the fact that racial discrimination and racist propaganda constitute offences under Iraqi law. Any victim of such offences is entitled to apply to the competent tribunals for compensation in respect of the material damage suffered. In accordance with article 3 of the Organization of the Judiciary Act No. 160 of 1979, the tribunals exercise jurisdiction over all individuals and public and private bodies corporate, unless otherwise stipulated in a special provision. The judgements of the tribunals are subject to appeal in the manner specified in the Codes of Procedure.

66. Racial discrimination constitutes a crime to which an individual, a group or society as a whole may fall victim. Consequently:

(a) Criminal proceedings are instituted, in accordance with article 1 of the Code of Criminal Procedure promulgated in Act No. 23 of 1971, through the submission of a verbal or written complaint to an examining judge or magistrate, a senior member of the police or any criminal investigation officer by the victim of the offence, his legal representative, any person having knowledge of the occurrence of the act, or the Department of Public Prosecutions;

(b) Under article 2 of the above-mentioned Act, such criminal proceedings cannot be halted, suspended or waived except in the circumstances specified in the Act. Under article 9, paragraph 1, of the Code of Criminal Procedure, the submission of a complaint is, in itself, equivalent to the filing of a suit. Under article 224, paragraph (a), of the Code of Criminal Procedure, the judgement handed down by the criminal court hearing the case

must award compensation to the victim in respect of the material and other damage that he has suffered. Judgements handed down by the tribunals are executed in accordance with the regulations laid down in chapter V of the Code of Criminal Procedure (arts. 280 et seq.) and civil damages are awarded in the manner prescribed by law.

67. With regard to the implementation of the Convention forming the subject of this report, it should be noted that, in accordance with article 5 of the Convention, in such cases the jurisdiction of the Iraqi tribunals covers crimes of racial segregation committed in or outside Iraq.

VIII. MEASURES TAKEN TO COMBAT RACIAL DISCRIMINATION IN THE FIELDS OF EDUCATION, INFORMATION AND CULTURE

(implementation of art. 7)

Education

68. In the fields of education, culture and information, Iraq's policy is based on the humanitarian concepts embodied in the Charter of the United Nations and other international declarations and conventions such as, in particular, the UNESCO Convention against Discrimination in Education, to which Iraq has acceded, and the UNESCO Declaration of 1978 concerning the role of the mass media in combating racial discrimination.

69. Accordingly, all teaching curricula, particularly in subjects such as national education, history, geography and literature, are based on a humanitarian concept that is opposed to racial discrimination and seeks to achieve equality among citizens and eliminate disparities between minorities and religious communities with a view to creating a generation that is cultured, open-minded and well informed. For example, the subjects of Arab-Kurdish fraternity and equality among the members of a single people have been introduced into the Kurdish school textbooks and the Universal Declaration of Human Rights and similar subjects relating to human relations and respect for the inviolable nature of the rights of others have also been incorporated in the Arab-language curricula for the third intermediate grade.

70. The State has been diligent in making education in Iraq, including school textbooks and social and sports activities, free of charge at the primary, intermediate, preparatory and vocational stages of education, including kindergartens and official colleges and universities. Students are not required to bear any expenses incurred in their studies and academic activities and every citizen, without distinction, is entitled to enjoy this right.

71. The State is committed to the promotion of education, since article 27, paragraph (a), of the Constitution places it under an obligation to combat illiteracy and ensure enjoyment by all citizens of the right to free education at all the primary, secondary and university levels.

Information

72. One of the main aims of Iraq's information policy is to combat racism, promote dialogue among peoples and ensure justice for all ethnic groups and minorities with a view to making their culture and intellectual heritage more widely known for the benefit of mankind as a whole. In international forums, Iraq is endeavouring to support the endeavours aimed at using the information media to eliminate all manifestations of racial discrimination and segregation and all the organs of the Iraqi information media have criticized the policy that was pursued by South Africa and other regimes elsewhere in the world.

73. At the domestic level, all the ethnic minorities in Iraq enjoy freedom to use the information media and, as already mentioned, have their own radio and television programmes, newspapers, magazines and publications in which they can express their cultures and their heritage. In this connection, we wish to refer to some of the provisions contained in the Publications Act No. 206 of 1968 concerning the struggle against racial discrimination:

(a) Article 16 of the Act stipulates: "No periodical shall publish anything which is detrimental to the concepts of the revolution and the republican institutions or which promotes colonialist, separatist, reactionary, regional, zionist or racist ideology, incites hatred, antagonism or discrimination among the members of the people or their various ethnic or religious communities, undermines the internal unity of the people or attempts to discredit the religions recognized in the Republic of Iraq";

(b) Article 19 (a) of the above-mentioned Act further stipulates: "It is prohibited to distribute in Iraq any foreign publications that seek to promote racist, zionist and similar movements or to incite hatred, antagonism or discrimination among the members of society or its ethnic or religious communities." Paragraph (b) of the same article stipulates that the State shall endeavour to make primary education compulsory, to expand vocational and technical education in urban and rural areas and to promote evening classes, particularly those designed to enable the popular masses to combine education with employment. Under paragraph (c) of that article the State has an obligation to ensure freedom of scientific research and to encourage and reward creative achievement in other intellectual, scientific and artistic activities.

74. Within the context of the recognition of the educational rights of the ethnic minorities, in addition to granting the members of these minorities access to the educational institutions that can be found in all parts of the country, a university was established in the city of Sulaimaniya for the Kurdish minority in northern Iraq and the Kurdish, Turkoman and Syriac minorities have been permitted to open their own educational institutions. As already indicated earlier in this report, every minority has the right to use its own language in addition to Arabic. It should be noted that the university at Sulaimaniya was subsequently relocated to the governorate of Salahuddin.

Culture

75. Iraq views culture as a means of dialogue among peoples based on the principle of the need to combat racism and ensure equality among peoples and their enjoyment of the right to self-determination. One of Iraq's cultural objectives is to revive the Arab-Islamic civilization and heritage and disseminate information on its origins, values and achievements, particularly in view of the benefit that mankind has derived from the cultural and intellectual heritage bequeathed by the Mesopotamian civilizations, as illustrated by their contribution to other human civilizations and by the divinely revealed values of Islam, which advocates equality among all members of the human race and is opposed to any discrimination among them.

76. Since the July 1968 revolution, Iraq has pursued a cultural policy under which all citizens, without distinction, are entitled to exercise their legitimate cultural rights. In this connection, we wish to point out that article 28 of the Constitution stipulates: "The aim of education is to raise and enhance the general standard of education, develop scientific modes of thought, stimulate the spirit of research, meet the requirements of economic and social modernization and development programmes and create an emancipated and progressive national generation that is physically and morally strong, proud of its people, its country and its heritage and aware of the rights of all its ethnic groups."

Annex

THE SITUATION IN NORTHERN IRAQ

1. In the section concerning the elimination of racial discrimination and the treatment of persons belonging to ethnic minorities in Iraq, we referred to the administrative and legal situation of the Kurdish minority in the region of Iraqi Kurdistan. Iraq has also given an account of its experience in dealing with the question of minorities in document E/CN.4/Sub.2/1994/54, which was submitted to the forty-sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

2. Iraq's approach to this question is based on two fundamental principles: (a) The purpose of the recognition of the rights of minorities should be application of the principle of non-discrimination among citizens, regardless of their ethnic, religious and linguistic affiliations, and not the granting of privileges to any particular group; (b) The need to ensure respect for the sovereignty and territorial unity and integrity of the country.

3. Iraq has opposed all attempts to promote confusion between the right of peoples to self-determination, as set forth in the first two articles of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and the rights of minorities as defined in article 27 of the International Covenant on Civil and Political Rights, particularly after some domineering States attempted to approach the issue of minorities from the standpoint of their own political interests by exploiting this issue in order to force some developing countries to impose the political system most conducive to the interests of those States or by threatening to divide their peoples and fragment their national territory and unity.

4. Iraq has been, and still is, one of the countries that have been targeted by this distorted approach to the issue of the protection of minorities through direct military interference in its internal affairs. Following the cessation on 28 February 1991 of the military operations which the coalition forces launched on 17 January 1991 and which resulted in widespread devastation of Iraq's infrastructure, the country was the scene of disturbances that were fomented abroad with a view to taking advantage of the situation created by the circumstances of the war in order to loot and burn public and private property and murder citizens who opposed those acts of destruction, which completed the devastation caused by the forces allied against Iraq. Those acts, in addition to the intercommunal and inter-ethnic strife that they provoked, forced the State to intervene in order to restore its authority and put an end to the disturbances, thereby fulfilling its national duty to maintain order and security. As a result, the groups responsible for those disturbances fled across the borders, particularly to Turkey and the Islamic Republic of Iran, and induced thousands of residents of the areas in which those disturbances occurred to leave their homes by spreading false rumours concerning the measures which the Government of Iraq might take against them.

5. The Government of Iraq took measures both internally and internationally to facilitate the return of those displaced persons to their homes by promulgating amnesty decrees in respect of all the persons who participated in those disturbances and also by signing a memorandum of understanding with the United Nations concerning humanitarian assistance.

6. The United States of America and some other Western States took advantage of this situation in order to interpret Security Council resolution 688 (1991) in a selective and distorted manner in order to engage in direct military intervention on the pretext of protecting the population and providing humanitarian assistance. The Iraqi Government was therefore forced to withdraw its administration from that region. That military intervention constituted blatant interference in Iraq's internal affairs, as well as a threat to its independence, sovereignty and territorial integrity and a flagrant violation of the right of peoples to self-determination, since Security Council resolution 688 (1991) did not authorize any State to intervene militarily; it merely requested States to provide assistance. Moreover, the Security Council resolutions adopted in the wake of the Kuwait crisis affirmed the need to respect Iraq's sovereignty and territorial integrity.

7. In view of the Iraqi Government's conviction that the situation in northern Iraq can be dealt with only through national dialogue, the political leadership in Iraq held a series of discussions with the Kurdish parties in order to reach a solution that would put an end to the sufferings of our Kurdish people. However, the political pressure which the United States of America brought to bear on some of the Kurdish parties, as well as the security situation in the region, made it impossible to reach any agreement. Consequently, the sufferings of Kurdish citizens have been increasing day by day. Clashes between Kurdish armed groups frequently degenerate into urban street wars in which thousands of innocent citizens are killed. In addition, that region has become the scene of intervention by the armies of some neighbouring States on various pretexts, as a result of which citizens are forced to leave their homes and move to other areas in quest of a safe haven. Such intervention also leads to the destruction of villages, rural centres and public services and the death of numerous innocent persons.

8. Anyone who studies what happened in northern Iraq since the cessation of the military operations resulting from the armed military aggression against Iraq on 17 January 1991 will inevitably discover the extent of the sufferings of that region's population and the flagrant manner in which their rights are being violated. The responsibility for those violations is borne by various parties which are contributing on a daily basis to the destruction of the community and its institutions. The principal party is the United States of America, the leader of the military intervention project in northern Iraq. Its presence there not only constitutes blatant interference in Iraq's internal affairs and an encroachment on Iraq's sovereignty; it also provides cover for some neighbouring States to carry out military operations which lead to ruthless acts of destruction and murder, without any deterrent, before the very eyes of the allied military forces, which have shown no concern for the tragedies and sufferings that have been inflicted on our Kurdish people. Joint responsibility for those violations must be borne by some Kurdish groups which have linked their destiny to the schemes of the United States of America

in the region in total disregard of all their people's rights and their own national duty to engage in dialogue with the political leadership in Iraq in order to seek ways and means of restoring stability and security in northern Iraq. The responsibility for those violations is also shared by some neighbouring States which have exploited the abnormal situation in northern Iraq, on the pretext of the security vacuum resulting from the absence of national authority there, in order to turn that region into a theatre of intervention by their armies and armed forces with all that this entails by way of evident violations of international law and human rights, in addition to the destruction of property and the killing or maiming of innocent persons. In principle, these parties bear full responsibility for the continuation of the abnormal situation in northern Iraq and for the gross violations of human rights resulting therefrom.

9. Iraq's position in regard to endeavours to strengthen human rights, and particularly the rights of minorities, in northern Iraq is that there is a need, above all, to rectify the abnormal situation there through the cessation of interference by foreign parties in its internal affairs. National dialogue, in a manner far removed from external interference and influence, is the only way to put an end to the severe sufferings of our Kurdish people in northern Iraq and, consequently, to strengthen and safeguard their human rights.